

REMARKS

Applicants submit this Amendment in response to the Office Action mailed February 4, 2003. Claims 5, 12, 13, 17 and 18 have been amended.

Claim Objections Claims 5, 12, 13, 17 and 18 are objected to by the Examiner as failing to properly claim the SEQ ID NOS. in the alternative. Claims 5, 12, 13, and 17 have been amended, as suggested by the Examiner, rendering this objection moot. Claim 18 has also been amended as suggested by the Examiner. Reconsideration and withdrawal of this objection to the claims is respectfully requested.

Claim Rejections Under 35 U.S.C. § 112, second paragraph Claims 5 and 17-18 stand rejected under 35 U.S.C. § 112, second paragraph, for alleged indefiniteness. Claim 5 has been amended to correct the lack of antecedent basis for "said antisense." Claim 17 has been amended to more clearly indicate the relationship between the 8-35 base sequence and the transcription initiation region, as supported in the specification at page 27, lines 1-6, and page 27, line 22-page 28, line 2. Specifically, the antisense sequences are linked functionally to a transcription initiation region. In view of the amendment, applicants submit that this ground of rejection can be withdrawn.

Claim Rejections Under 35 U.S.C. § 112, first paragraph Claims 17 and 18 are rejected under 35 U.S.C. § 112, first paragraph. The Examiner stated that the specification as filed allegedly does not show that the individual antisense molecules "bind to the transcription initiation region." (Office Action at page 4, lines 7-8.) Applicants submit that the intent of the specification is to enable antisense oligonucleotide constructs that can be expressed in a cell. This is indicated at, for example, page 27, lines 3-6:

Alternatively the sequences can be incorporated into expression cassettes or constructs such that the sequence [*i.e.*, the antisense sequence] is expressed in the cell. Generally the construct contains the proper regulatory sequence or promoter to allow the sequence to be expressed in the target cell.

Thus, the specification is not indicating that the “individual antisense bind to the transcription initiation region” as suggested in the Office Action at page 4, lines 7-10.

Applicants therefore submit that the Examiner’s concerns regarding which of SEQ ID NO:2-6 and 12-19 bind to the initiation region of Akt3 (Office Action, page 4, lines 15-18) are moot in that this is not what is disclosed or intended by the application and the claims as filed.

Further, contrary to the Examiner’s suggestion at page 4, lines 9-10 of the Office Action, applicants submit that the specification does enable the use of transcription initiation regions in relation to expression of the disclosed SEQ ID NOS. A specification need not disclose in detail material that is well known in the art. In the relevant art for this invention, one of skill is familiar with methods of expressing polynucleotides and oligonucleotides in a cell. Such methods routinely utilize expression elements to achieve transcription of the sequence to which the expression elements are functionally attached. Applicants submit that the disclosure of the inventive antisense oligonucleotides, along with the disclosure that such oligonucleotides can be suitably expressed in a cell using regulatory sequences and expression elements, enables the invention of claims 17 and 18. The expression elements themselves are not the subject of the invention, and one of skill is capable of and free to choose any suitable elements and regions.

For these reasons, reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, are respectfully requested.

In the previous Office Action dated May 8, 2002 (Paper No. 10), the Examiner indicated that claims 17 and 18 were allowable at that stage in the prosecution. In the present Office Action, the Examiner indicated that claims 5, 12, 13, 17 and 18 are free of the prior art. Applicants respectfully request that the Examiner allow all the currently pending claims. Favorable consideration and a Notice of Allowance are earnestly solicited.

All of the Claims remaining in the application are now clearly allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7650



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PATENT TRADEMARK OFFICE

Respectfully submitted,

Davis Wright Tremaine LLP

A handwritten signature in black ink, appearing to read "Jane E. R. Potter", written over a horizontal line.

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AMENDMENT TO THE CLAIMS

In the Claims:

Please amend the claims to read as follows:

Claims 1-4 (Cancelled)

~~1.~~ (Currently Amended) An isolated Akt3 inhibitor wherein said inhibitor is an antisense molecule, and wherein said antisense molecule comprises a nucleic acid sequence selected from the group consisting of [SEQ ID NO:2-6 AND 12-19] SEQ ID NOS:2, 3, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18 and 19, wherein said antisense molecule is not longer than 35 nucleotides in length and is capable of inhibiting the expression of human Akt3.

Claims 6-11 (Cancelled)

~~12.~~ (Currently Amended) A composition[,] comprising a therapeutically effective amount of an Akt3 antisense molecule, wherein said antisense molecule comprises a nucleic acid sequence selected from the group consisting of [SEQ ID NO:2-6 AND 12-19] SEQ ID NOS: 2, 3, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18 and 19.

~~13.~~ (Currently Amended) A method of decreasing the expression of Akt3 in a mammalian cell *in vitro*, comprising administering to said cell an Akt3 inhibitor wherein said Akt3 inhibitor is an antisense molecule selected from the group consisting of [SEQ ID NO:2-6 and 12-19] SEQ ID NOS: 2, 3, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18 and 19.

Claims 14-16 (Cancelled)

~~17.~~ (Currently Amended) An isolated polynucleotide [with a sequence] comprising:

- a. a polynucleotide comprising a transcription initiation region; and
- b. a polynucleotide sequence encoding an antisense oligonucleotide at least 8 nucleotides or nucleotide analogues and not longer than 35 nucleotides in length comprising a sequence selected from the group consisting of [SEQ ID NO:2-6 AND 12-19] SEQ ID NOS:2, 3, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18 and 19.

~~18.~~ (Currently Amended) A recombinant vector comprising [polynucleotide having a DNA with a sequence] the isolated polynucleotide of claim 17.